

The Guide - Volume 1

CHAPTER 10: PERSONNEL POLICIES AND PROCEDURES

Subchapter 1310.1 Employment of Relatives.

CONTENTS

[Section A. Policy](#)

[Section B. Procedures](#)

[Exhibits.](#)

[A. Degrees of Consanguinity according to the Civil-Law Computation](#)

[B. Degrees of Consanguinity according to the Common-Law and Canon-Law Computation](#)

A. Policy.

1. No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court. 28 U.S.C. § 458(a)(1). This provision applies to the appointment of a federal public defender by a court of appeals.
2. Whoever, being a judge of any court of the United States, appoints as receiver, or trustee, any person related to such judge by consanguinity, or affinity, within the fourth degree – Shall be fined under this title or imprisoned not more than five years, or both. 18 U.S.C. § 1910.
3. A public official (defined as any officer, employee, or other individual in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend such actions in connection with employment), including a federal public defender, may not appoint, employ, promote, advance, or advocate for such actions, in or to a civilian position in the agency in which he or she is serving, any individual who is a relative (defined as father, mother, brother, sister, son, daughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law,

mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, half brother, or half sister) of the public official. Any individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced. 5 U.S.C. § 3110(a)-(c).

4. Nothing in the foregoing statutes affects the granting of a step increase to an otherwise qualified employee regardless of the relationship of the supervisor to the employee. Step increases are not considered as promotions or advancements, and are therefore not prohibited by the nepotism statutes.

B. Procedures.

There has been no judicial interpretation of the meaning of the terms “degree of first cousin” or “within the fourth degree,” as used in paragraphs 1 and 2 of Section A above. The matter is further complicated by the existence of two established methods--canon or common law and civil law--by which degrees of relationship are computed, both of which are in extensive use. Charts outlining each system are shown in Exhibits A and B of this subchapter. If both systems agree on inclusion or exclusion, that result may be used; if there is disagreement, please contact the Administrative Office’s Human Resources Division for an official determination.